

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

UNITED STATES OF AMERICA *
 *
 v. * CR 109-133
 *
ALFONSO ALVARES BANDA *

O R D E R

In the captioned criminal matter, Defendant Alfonso Alvares Banda was sentenced on March 21, 2011, to serve 235 months of imprisonment followed by five years of supervised release. At present, Banda has filed a motion for a "compassionate release." Through the motion, Banda essentially seeks early release from imprisonment because of his age and medical issues.¹ The Bureau of Prisons website lists his projected release date as January 28, 2023.

Generally speaking, a court cannot modify a federally imposed sentence except in certain enumerated circumstances. The only relevant exception to Banda's situation is as follows:

The court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment . . ., after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that

¹ Banda is currently 78 years old and claims he has difficulty moving around and with his vision.

(i) extraordinary and compelling reasons warrant such a reduction; or

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(e), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community . . .

and that such a reduction is consistent with the applicable policy statements issued by the Sentencing Commission.


18 U.S.C. § 3582(c)(1)(A)(i)-(ii) (emphasis added).

In the absence of a motion by the Director of the Bureau of Prisons to reduce Banda's sentence, this Court lacks jurisdiction to grant the relief he seeks. The Director of the Bureau of Prisons has not filed such a motion. The Court refers Banda to 28 C.F.R. § 571.61, which provides that an inmate requesting a motion under § 3582(c)(1)(A) shall submit such request in writing to the Warden. Such request shall at a minimum contain the following information: (1) the extraordinary or compelling circumstances that the inmate believes warrant consideration; and (2) proposed release plans, including where the inmate will reside, how the inmate will support himself, and if the basis for the request involves the inmate's health, information on where the inmate will receive medical treatment, and how the inmate will pay for such treatment. Id.

Upon the foregoing, Defendant's motion for compassionate

release (doc. no. 158) is **DENIED** because this Court lacks jurisdiction to grant his motion pursuant to 18 U.S.C. § 3582(c)(1).

ORDER ENTERED at Augusta, Georgia, this 12th day of September, 2016.



HONORABLE J. RANDAL HALL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA